

Message

**From:** Carroll, Thomas [Carroll.Thomas@epa.gov]  
**Sent:** 1/28/2021 10:32:35 PM  
**To:** Kelley, Rosemarie [Kelley.Rosemarie@epa.gov]  
**Subject:** RE: **Ex. 5 Deliberative Process (DP)**

No, I expected to continue that effort. -- Tom

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**From:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>  
**Sent:** Thursday, January 28, 2021 5:32 PM  
**To:** Carroll, Thomas <Carroll.Thomas@epa.gov>  
**Subject:** FW: **Ex. 5 Deliberative Process (DP)**

Tom –

At the end of the OCE weekly, Larry asked if you would continue to be point on the **Ex. 5 Deliberative Process (DP)** and I agreed that made sense. Let me know if you have questions or concerns.

Rosemarie

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**From:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>  
**Sent:** Thursday, January 28, 2021 1:58 PM  
**To:** Hull, George <Hull.George@epa.gov>  
**Cc:** Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>  
**Subject:** FW: **Ex. 5 Deliberative Process (DP)**

George -- See the note from DOJ on several cases that have press implications.

Rosemarie -- please invite George when we set up time to discuss.

Larry

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**From:** Gelber, Bruce (ENRD) <Bruce.Gelber@usdoj.gov>  
**Sent:** Thursday, January 28, 2021 1:49 PM  
**To:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>  
**Cc:** Carroll, Thomas <Carroll.Thomas@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Mariani, Tom (ENRD) <Tom.Mariani@usdoj.gov>; karen.dworkin@usdoj.gov; Patricia.McKenna@USDOL.GOV; jeffrey.Sands@usdoj.gov; Douglas, Nathaniel (ENRD) <Nathaniel.Douglas@usdoj.gov>; Mahan, Ellen (ENRD) <Ellen.Mahan@usdoj.gov>; Neumann, Jennifer Scheller (ENRD) <Jennifer.Neumann@usdoj.gov>; Poux, Joseph (ENRD) <Joseph.Poux@usdoj.gov>; justin.smith@usdoj.gov; Miller, Wendy (ENRD) <Wendy.Miller@usdoj.gov>; Nichols, Danielle (PAO) <Danielle.Nichols@usdoj.gov>; Freeman, James (ENRD) <James.Freeman2@usdoj.gov>  
**Subject:** **Ex. 5 Deliberative Process (DP)**

Larry: I met with EES, LPS and ECS this morning and we made a number of tentative decisions on the 3 matters listed above.

**Ex. 5 Deliberative Process (DP)**

# **Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

- **Next steps** -- A question was raised as to whether the press statement should come from DOJ only or be a joint DOJ/EPA release. I am willing to work with you on this. As noted earlier, ENRD needs authority from DOJ leadership offices and the concurrence of our press office before we can issue this release, but we have begun the process of trying to secure these approvals hopefully some time next week.

I am adding John Fogarty and the ENRD SEPs Team for their awareness.

Please have your staff work directly with the appropriate ENRD staff on all these matters. I am also happy to answer any questions you might have.

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**From:** Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>

**Sent:** Wednesday, January 27, 2021 12:13 PM

**To:** Gelber, Bruce (ENRD) <[BGelber@ENRD.USDOJ.GOV](mailto:BGelber@ENRD.USDOJ.GOV)>

**Cc:** Carroll, Thomas <[Carroll.Thomas@epa.gov](mailto:Carroll.Thomas@epa.gov)>; Kelley, Rosemarie <[Kelley.Rosemarie@epa.gov](mailto:Kelley.Rosemarie@epa.gov)>; Koslow, Karin <[Koslow.Karin@epa.gov](mailto:Koslow.Karin@epa.gov)>

**Subject:** RE: **Ex. 5 Deliberative Process (DP)**

That's helpful. Tom Carroll will work with EES, and when they have a new draft, I'll share it with the press folks here and the new appointees. Thanks.

Larry

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**From:** Gelber, Bruce (ENRD) <[Bruce.Gelber@usdoj.gov](mailto:Bruce.Gelber@usdoj.gov)>

**Sent:** Wednesday, January 27, 2021 11:39 AM

**To:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>

**Cc:** Nichols, Danielle (PAO) <Danielle.Nichols@usdoj.gov>; justin.smith@usdoj.gov; Mariani, Tom (ENRD) <Tom.Mariani@usdoj.gov>; Patricia.McKenna@USDOJ.GOV; Tom Benson <thomas.benson@usdoj.gov>; karen.dworkin@usdoj.gov; Oakes, Matthew (ENRD) <Matthew.Oakes@usdoj.gov>; Neumann, Jennifer Scheller (ENRD) <Jennifer.Neumann@usdoj.gov>; Carroll, Thomas <Carroll.Thomas@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>

**Subject:** RE: Ex. 5 Deliberative Process (DP)

A few more quick thoughts and then I need to turn this over to your staff and EES, LPS and OLA.

## Ex. 5 Deliberative Process (DP)

At this point, please have your staff coordinate with Danielle Nichols from OPA and your EES and LPS points of contact.

Thanks

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**From:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>

**Sent:** Wednesday, January 27, 2021 11:21 AM

**To:** Gelber, Bruce (ENRD) <BGelber@ENRD.USDOJ.GOV>

**Cc:** Nichols, Danielle (PAO) <dnichols@jmd.usdoj.gov>; Smith, Justin (ENRD) <JSmith2@ENRD.USDOJ.GOV>; Mariani, Tom (ENRD) <TMariani@ENRD.USDOJ.GOV>; McKenna, Patricia (ENRD) <PMcKenna@ENRD.USDOJ.GOV>; Benson, Thomas (ENRD) <TBenson@ENRD.USDOJ.GOV>; Dworkin, Karen (ENRD) <KDworkin@ENRD.USDOJ.GOV>; Oakes, Matthew (ENRD) <MOakes@ENRD.USDOJ.GOV>; Neumann, Jennifer Scheller (ENRD) <JNeumann@ENRD.USDOJ.GOV>; Carroll, Thomas <Carroll.Thomas@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>

**Subject:** RE: Ex. 5 Deliberative Process (DP)

Bruce – Thanks for your note. I haven't run it by folks here yet as I wanted to see if it was in the ballpark of what DOJ might accept. I made the one specific change you mentioned (see below), but am unclear on what additional "significant revisions" you had in mind. Could you let me know what other portions need to be revised, and then I'll send it back to you and up the chain here.

# Ex. 5 Deliberative Process (DP)

~~the federal enforcement remedy.~~

Larry

**From:** Gelber, Bruce (ENRD) <Bruce.Gelber@usdoj.gov>

**Sent:** Wednesday, January 27, 2021 10:47 AM

**To:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>

**Cc:** Nichols, Danielle (PAO) <Danielle.Nichols@usdoj.gov>; justin.smith@usdoj.gov; Mariani, Tom (ENRD) <Tom.Mariani@usdoj.gov>; Patricia McKenna@USDOJ.GOV; Tom Benson <thomas.benson@usdoj.gov>; karen.dworkin@usdoj.gov; Oakes, Matthew (ENRD) <Matthew.Oakes@usdoj.gov>; Neumann, Jennifer Scheller (ENRD) <Jennifer.Neumann@usdoj.gov>

**Subject:** RE: Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

After our call on Monday, I informed Jean, EES, LPS (our citizen suit experts) and our press office of your proposal. Do you know whether your staff has run the proposed language by any of those offices? Can you ask whomever is working on this at EPA to reach out to EES, LPS and Danielle Nichols, our press officer, to revise the statement so that it is something DOJ could join.

Before issuing the statement, however, I will need to run that by our Acting Associate AG. I'm happy to do so but need a version I can recommend.

Thanks.

Copying Tom, Karen, Patricia McKenna and Tom Benson from EES, Justin Smith and Matt Oakes from LPS, Jennifer Neumann from Appellate for her awareness, and Danielle Nichols.

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**From:** Starfield, Lawrence <Starfield.Lawrence@epa.gov>

**Sent:** Wednesday, January 27, 2021 10:03 AM

**To:** Gelber, Bruce (ENRD) <BGelber@ENRD.USDOJ.GOV>

**Subject:** Ex. 5 Deliberative Process (DP)

Bruce,

# Ex. 5 Deliberative Process (DP)

For your consideration. Please let us know what you think.

Thanks.

Larry

Larry Starfield  
Acting Assistant Administrator  
EPA Office of Enforcement and Compliance Assurance  
(202) 505-0961 (cell)

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